

Chapter CCLI.¹

THE ORDINARY MOTION TO REFER.²

1. Reference with instructions. Sections 2695–2700.
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2695. The ordinary motion to recommit may be amended, as by adding instructions, unless such amendment is prevented by moving the previous question.

On January 19, 1909,³ the House having under consideration the urgent deficiency appropriation bill, Mr. James A. Tawney, of Minnesota, moved to recommit the bill to the Committee on Appropriations, and upon that motion demanded the previous question.

Mr. J. Thomas Heflin, of Alabama, proposed to amend the motion by adding instructions directing the committee to report back the bill with certain amendments.

The Speaker⁴ ruled:

The previous question would have to be voted down to make the motion amendable by instructions. The gentleman from Minnesota having made the motion for the previous question upon a motion to recommit the bill to the Committee on Appropriations instructions, of course, can not be offered unless the previous question should fall.

2695a. The motion to recommit with instructions is a formal proceeding and is in order prior to the election of committees to which the measure could be referred.

On June 6, 1929,⁵ prior to the election of the Committee on the Census, the House was considering the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses, and for the apportionment of Representatives in Congress.

The bill having been read a third time, Mr. John E. Rankin, of Mississippi, offered the following motion:

Mr. Rankin moves to recommit the bill to the Committee on the Census when raised or organized.

¹Supplementary to Chapter CXXI.

²Not in order in Committee of the Whole. (Sec. 4721 or Vol. IV.)

³Second session Sixtieth Congress, Record, p. 1125.

⁴Joseph G. Cannon, of Illinois, Speaker.

⁵First session Seventy-first Congress, Record, p. 2457.

The Speaker¹ put the question on the motion, and it was decided in the negative, yeas 126, nays 253.

2696. The House may refer to any committee regardless of jurisdiction, and motions to recommit may provide for reference to another committee than that reporting the bill.

On December 21, 1932,² pending the passage of the bill (H. R. 13742), to provide revenue by the taxation of nonintoxicating liquor, Mr. Frank Crowther, of New York, moved to recommit the bill to the Committee on the Judiciary.

Mr. John J. Cochran, of Missouri, made the point of order that the bill had been reported by the Committee on Ways and Means and the motion to recommit should provide for reference to that committee rather than to the Committee on the Judiciary.

The Speaker³ overruled the point of order and said:

This is not a question of precedent. You can move to recommit it to any committee of the House. The question is on ordering the previous question.

2697. The motion to recommit is the prerogative of the minority, and Members opposed to the bill are recognized to move recommitment in the order of their committee rank.

On April 1, 1932,⁴ the House was considering the bill (H. R. 10236), the revenue bill, reported from the Committee of the Whole House on the state of the Union with amendments, when in response to an inquiry from Mr. John W. McCormack, of Massachusetts, the Speaker⁵ explained:

Under the usages of the House on the motion to recommit, it has been customary for the Chair to recognize the opposition, which in the present case would be the Republican members of the Ways and Means Committee, to move to recommit provided they qualified as being opposed to the bill. If no Member on the minority side sought recognition and qualified for that purpose, the Chair would then recognize the majority side, according to their rank on the committee, provided they qualified for a motion to recommit.

That does not give the gentleman from Texas any priority over the gentleman from California. If any Member of the House is opposed to the bill in its entirety, he is entitled to preference.

Whereupon Mr. Barbour announced that he was opposed to the bill without qualification, and was recognized to offer a motion, which was read by the Clerk.

In response to an inquiry, the Speaker pro tempore explained that—

The proposed motion to recommit eliminates from the bill the McSwain amendment along with other provisions in those paragraphs to which the McSwain amendment was adopted as a perfecting amendment.

Mr. Ross A. Collins, of Mississippi, made the point of order that the instructions accompanying the motion proposed to strike out an amendment already adopted by the House, the McSwain amendment.

¹ Nicholas Longworth, of Ohio, Speaker.

² Second session Seventy-second Congress, Record, p. 866.

³ John N. Garner, of Texas, Speaker.

⁴ First session Seventy-second Congress, Record, p. 7327.

⁵ John N. Garner, of Texas, Speaker.

The Speaker pro tempore ruled:

In the Committee of the Whole House on the state of the Union a perfecting amendment was adopted to the paragraph, known as the McSwain amendment. The bill was reported from the Committee of the Whole House of the state of the Union to the House, the House has agreed to the amendments, and has ordered the bill engrossed and read a third time.

The question is whether a motion to recommit, as offered by the gentleman from California, is in order which seeks to change something that the House has agreed to.

The motion to recommit was place in the rule to give a substantial privilege to the minority of the House—I do not mean any political minority but a minority of the House—so as to give them a chance to go on record as to legislation.

2698. A Member qualifying as unconditionally opposed to a bill is entitled to recognition to move recommitment in preference to a Member opposed to the bill provisionally or in part.

Discussion of the function of the motion to recommit.

While a motion to recommit with instructions to strike out an amendment adopted by the House is not in order, a motion is admissible accompanied by instructions striking out the text perfected by such an amendment.

A motion to recommit with instructions is subject to amendment unless the previous question is ordered.

Denial of the use of an appropriation for expenses incident to change of stations of Army officers with specified exceptions, was held to be a limitation and in order on an appropriation bill.

On May 19, 1932,¹ the bill (H. R. 11897), the War Department appropriation bill, was ordered to be engrossed and read a third time, when Mr. Henry E. Barbour, of California, offered a motion to recommit the bill with instructions.

The Speaker pro tempore² inquired if the gentleman was opposed to the bill.

Mr. Barbour answered that he was opposed to the bill in its present form.

The Speaker pro tempore inquired if any Member was opposed to the bill in its entirety.

Mr. Thomas L. Blanton said that he was opposed to certain feature of the bill.

The Speaker pro tempore said:

In the Committee of the Whole House on the state of the Union there is no roll-call vote, so that the only opportunity that a minority may have to go on record is by means of a motion to recommit in the House. If the motion to recommit of the gentleman from California sought simply to eliminate from the bill the McSwain amendment, it would not be in order, because the question of estoppel would apply. When the House has acted on a matter, it must be *res adjudicata*. However, as the Chair understands the proposition, the McSwain amendment was adopted as a perfecting amendment to the paragraph. The motion to recommit of the gentleman from California proposes to strike out a substantial portion of the paragraph comprehending the McSwain amendment. Under the general rules of the House, where a motion is made to strike out a paragraph, a perfecting amendment changing the paragraph is preferential and the vote is first taken on the perfecting amendment. If the perfecting amendment is adopted, then it is in order to move to strike out the entire paragraph, notwithstanding the House or the committee has adopted a perfecting amendment to the paragraph.

¹First session Seventy-second Congress, Record, p. 10717.

²Charles R. Crisp, of Georgia, Speaker pro tempore.

The Chair thinks that the same rule applies to a motion to recommit where it is proposed in such a motion to strike out a paragraph or a portion of a paragraph which may have been perfected by amendments.

The Chair is therefore constrained to rule that the point of order is not good, and overrules the point of order.

Mr. Blanton offered as a substitute for the pending motion a proposition to recommit the bill with instructions to report it back forthwith with following amendment:

“Provided, That no appropriation contained in this act shall be available for or on account of any expense incident to the permanent change of station of any commissioned officer of the Army except (1) officers appointed to an relieved from positions that are filled by and with the advice and consent of the Senate, (2) officers detailed to and from Army schools as students, (3) military attachés, (4) offices ordered to and from duty in the Canal Zone and in the Philippines, and (5) officers ordered to replace officers who die or may be separated from the active list.”

Mr. Carl R. Chindblom, of Illinois, objected that a substitute was not in order and that Mr. Barbour as proponent of the pending motion to recommit was entitled to the floor.

The Speaker pro tempore said:

The gentleman from California did not move the previous question, and the Chair had recognized the gentleman from Texas, Mr. Blanton. Undoubtedly, if the previous question had been moved and sustained, no substitute motion to recommit would be in order, but the previous question was not moved, and the gentleman from Texas is within his parliamentary rights.

The Clerk will report the substitute motion of the gentleman from Texas.

Mr. Chindblom submitted the further point of order that the instructions proposed by Mr. Glanton constituted legislation on an appropriation bill.

The Speaker pro tempore overruled the point of order and said:

The Chair thinks it is a limitation, and the question is on the motion to recommit by the gentleman from Texas.

2699. Instructions proposed in a motion to recommit are subject to amendment unless the previous question has been ordered.

On February 12, 1912,¹ the House was considering the bill (H. R. 8768) regulating loans in the District of Columbia.

Mr. L. C. Dyer, of Missouri, moved to recommit the bill to the Committee on the District of Columbia, with instructions to report it back forthwith with an amendment.

Mr. Martin B. Madden, of Illinois, propounded a parliamentary inquiry as to whether it would be in order to offer a amendment to the instructions proposed in the motion to recommit.

The Speaker pro tempore² held that amendments might be offered until the previous question was ordered.

¹ Second session Sixty-second Congress, Record, p. 1967.

² Henry D. Clayton, of Alabama, Speaker pro tempore.

2700. The rejection of an amendment by the Committee of the Whole does not preclude the offering of the same amendment in a motion to recommit with instructions.

On June 16, 1932,¹ the joint resolution (H. J. Res. 418) authorizing the distribution of Government-owned wheat and cotton to the American National Red Cross and other organizations for the relief of distress, was ordered engrossed and was read a third time.

Mr. Clifford R. Hope, of Kansas, moved to recommit the joint resolution to the Committee on Agriculture with instructions to report it back forthwith with an amendment providing that wheat and cotton affected by the bill might be processed and exchanged for foodstuffs and cloth, respectively.

Mr. William B. Bankhead, of Alabama, made the point of order that the amendment included in the instructions accompanying the motion to recommit had been offered and rejected when the joint resolution was under consideration in the Committee of the Whole, and could not again be proposed.

The Speaker² overruled the point of order.

2701. It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

An amendment may not be proposed by instructions in a motion to recommit which would not have been in order if offered as an amendment during consideration of the bill.

A motion to recommit may not include instructions proposing legislation in a general appropriation bill.

On March 24, 1910,³ the question being on the passage of the pension appropriation bill, Mr. William A. Cullop, of Indiana, moved that the bill be recommitted to the Committee on Appropriations with instructions that it be reported back to the House forthwith, amended by adding as a new section the following:

That any person who served ninety days or more in the military or naval service of the United States during the late civil war, or sixty days in the war with Mexico, and who shall have been honorably discharged therefrom, shall, upon making proof of such facts according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll, and be entitled to receive a pension of \$30 per month.

Mr. J. Warren Keifer, of Ohio, made the point of order that the amendment proposed in the instructions if offered to the bill as an amendment would have been subject to a point of order, and it was not competent to do by indirection by means of a motion to recommit what could not be done directly by a motion to amend.

The Speaker⁴ said:

The rule reads as follows:

“Rule XXI, paragraph 2:

“No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation

¹First session Seventy-second Congress, Record, p. 13210.

²Henry T. Rainey, of Illinois, Speaker.

³Second session Sixty-first Congress, Record, p. 3727.

⁴Joseph G. Cannon, of Illinois, Speaker.

of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.”

This is a motion to recommit with instructions. If the motion had been made in the Committee of the Whole House on the state of the Union as an amendment, or if it had been a provision in the original bill reported by the Committee on Appropriations, it would have been out of order under the rule which has just been read, and which has been a rule of the House for almost fifty years, if not more than fifty years; and under the rules that can not be done indirectly, by a motion to recommit, which can not be done directly.

The Chair is not alone in this construction of the rule. There is a uniform line of decisions by every Speaker since the Chair has been a Member of this House, almost forty years, beginning with Mr. Speaker Blaine, followed by Mr. Speaker Kerr, Mr. Speaker Randall, Mr. Speaker Keifer, Mr. Speaker Carlisle, Mr. Speaker Reed, Mr. Speaker Crisp, Mr. Speaker Reed again, Mr. Speaker Henderson, and the present Speaker. All without exception have made the same ruling; so that the Chair not only has the letter of the rule, but an unbroken line of decisions; and these precedents, as well as the letter of the rule, compel the Chair to sustain the point of order. The point of order is sustained. The motion is not in order.

2702. On January 16, 1917,¹ the pending question was on the passage of the Post Office appropriation bill.

Mr. Charles H. Randall, of California, moved to recommit the bill to the committee with instructions to report it back to the House forthwith with an amendment prohibiting the mailing of matter containing advertisements of intoxicating liquors.

Mr. Swagar Sherley, of Kentucky, made the point of order that the amendment proposed legislation on a appropriation bill.

The Speaker² sustained the point of order.

2703. A motion to recommit may not be accompanied by instructions to incorporate a provision which would not have been in order if offered as an amendment.

A limitation on an appropriation bill is objectionable to the rules if it palpably limits executive discretion by imposing additional duties not required by law.

On February 8, 1929,³ the Naval appropriation bill was read a third time, when Mr. Fiorello H. LaGuardia, of New York, offered a motion to recommit the bill to the Committee on Appropriations with instructions to report it back to the House instantan with the following amendment:

That no part of the moneys herein appropriated for the Naval Establishment or herein made available therefor shall be used or expended under contract hereafter made for the repair, purchase, or acquirement, by or from any private contractor, of any naval vessel, machinery, article, or articles that at the time of the proposed repair, purchase, or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit, and when such repair, purchase, acquirement, or production would result in a saving in cost to the Government.

¹ Second session Sixty-fourth Congress, Record, p. 1488.

² Champ Clark, of Missouri, Speaker.

³ Second session Seventieth Congress, Journal, p. 401; Record, p. 3106.

Mr. Burton L. French, of Idaho, made the point of order that the amendment incorporated in the motion proposed legislation and was not in order on an appropriation bill.

The Speaker¹ held:

The chair, after reading the amendment of the gentleman from New York, finds that the only change made in the latter part of the section is that he strikes out the words "in the judgment of the Secretary of the Navy," and the words "not involve an appreciable increase" are stricken out and the words "result in a saving" are inserted. It was ruled out in the committee. Of course, it is conceded that the matter as carried in the bill is subject to a point of order. Now, the Chair is called upon to decide whether striking out of the words "Secretary of the Navy" and the substitution of the words "result in a saving" in lieu of the words "not involve an appreciable increase" do not make any change in the fact that on some official is imposed an additional duty of determining whether or not there is a saving.

The Chair clearly thinks that the striking out of the words "Secretary of the Navy" does not change the situation in that regard. The Chair sustains the point of order.

2704. A motion to recommit with instructions is not in order unless such instructions would have been in order if offered as an amendment to the bill.

Amendments proposed in instructions accompanying a motion to recommit must be germane to the bill.

On December 18, 1917,² following the third reading of the joint resolution (H. J. Res. 195) providing revenue to defray war expenses, Mr. Frederick H. Gillett, of Massachusetts, moved to recommit the joint resolution to the Committee on Ways and Means with instructions not to report it back to the House until the Commissioner of Internal Revenue had ruled whether under the resolution Members of Congress would be subject to the excess-profits tax.

Mr. Claude Kitchin, of North Carolina, in making a point of order against the motion to recommit, called attention to a similar situation in 1913 when a point of order was sustained against a motion by Mr. James R. Mann, of Illinois, to recommit the Underwood tariff bill with instructions to delay the bill until the Tariff Board had reported.

The Speaker² sustained the point of order.

2705. On May 8, 1911,⁴ the bill H. R. 4413, a tariff bill to place agricultural implements on the free list, had been read a third time, when Mr. James R. Mann, of Illinois, moved to recommit the bill with instructions to insert as a new section the following:

The provisions of this act shall apply only to goods, wares, articles, and merchandise when imported from a country, dependency, province, or colony, being the product thereof, which does not impose any tax or duty upon, or by way of regulation or otherwise practically prohibit, the importation into such country, dependency, province, or colony from the United States of flour or cottonseed oil or of live cattle and fresh, refrigerated, dried, smoked, salted, canned, or otherwise prepared or preserved meats, which are accompanied by a certificate of inspection by the proper officials of the United States, and which country, dependency, province, or colony does

¹ Nicholas Longworth, of Ohio, Speaker.

² Second session Sixty-fifth Congress, Record, p. 534.

³ Champ Clark, of Missouri, Speaker.

⁴ First session Sixty-second Congress, Record, p. 1120.

not prohibit, or restrict in any manner or form, the exportation of any of the articles named in this act, or of wood used in the manufacture of wood pulp or paper.

Mr. Oscar W. Underwood, of Alabama, made the point of order that under a rule¹ recently adopted the proposed amendment was not germane, and therefore not in order in instructions accompanying a motion to recommit.

The Speaker² directed the Clerk to read sections 5834 and 5835, and held:

It is not necessary for the Chair to pass any opinion on the wisdom of this new rule; it is his duty to decide according to the rules. It is clear that the amendment offered by way of matter contained in the motion to recommit under this rule would not have been in order if offered as an amendment; and on the high authority of Mr. Speaker Reed and Mr. Speaker Cannon, I sustain the point of order made by the gentleman from Alabama.

2706. On March 12, 1918,³ the House resumed consideration of the bill H. R. 9248, the District of Columbia rent bill.

The engrossed copy having been read, Mr. George Holden Tinkham, of Massachusetts, moved to recommit the bill with an amendment striking out all after the enacting clause and substituting a proposition for the appointment of a rent commission to fix rents.

Mr. Ben Johnson, of Kentucky, made the point of order that the bill contained no provision for fixing rents or for the establishment of a commission, and therefore the proposed amendment was not germane.

The Speaker⁴ rules:

On the 8th of May, 1913, in the first session of the Sixty-third Congress, there was a battle royal in this House on a question very much like this one. It was on a motion to recommit the Underwood tariff bill. At the request of the Chair, the gentleman from Illinois, Mr. Mann, and the gentleman from New York, Mr. Payne, furnished the Chair in advance of their motion to recommit, and it gave ample time to investigate the matter. I did investigate it thoroughly and conscientiously. The question involved was whether they could hitch a tariff commission to the bill. The Chair sustained the point of order, because it was setting up a new kind of a machine that had nothing to do with the bill. There is one proposition in this motion to recommit that compels the Speaker, in light of the precedents, to hold this point of order well taken, and that is the bringing up of this administration feature, of the tax commission, a great machine. The point of order is sustained.

2707. Instructions accompanying a motion to recommit must be germane to the bill under consideration.

To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

¹ Adopted April 5, 1911, and repealed January 18, 1924, providing: "No amendment shall be in order to any bill affecting revenue which is not germane to the subject matter in the bill; nor shall any amendment to any item of such bill be in order which does not directly relate to the item to which the amendment is proposed."

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-fifth Congress, Record, p. 3390.

⁴ Champ Clark, of Missouri, Speaker.

On April 1, 1910,¹ Mr. Frederick H. Gillett, of Massachusetts, from the Committee on Appropriations, reported to the House the legislative, executive, and judicial appropriation bill with Senate amendments.

On motion of Mr. Gillett, all Senate amendments were disagreed to with the exception of Senate amendment No. 78, reading as follows:

Provided, That the reports required by section 38 of said act shall only be made public when called for by resolution of the Senate or the House of Representatives or upon the order of the President when he deems it for the public interest, and that the Secretary of the Treasury shall formulate rules and regulations for classifying, indexing, and exhibiting said reports or any information therefrom; which said rules and regulations shall be approved by the President.

Mr. Gillett moved that the House concur in Senate amendment No. 78, with the following amendment:

Strike out all of amendment No. 78 and insert instead thereof the following:

"For classifying, indexing, exhibiting, and properly caring for the returns of all corporations required by section 38 of an act entitled 'An act to provide revenue, equalize duties, encourage the industries of the United States, and for other purposes,' approved August 5, 1909, including the employment in the District of Columbia of clerical and other personal services, and for rent of such quarters as will be necessary, \$25,000: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President."

The question being taken and the yeas and nays being ordered, the motion was agreed to, yeas 132, nays 124.

Mr. John J. Fitzgerald, of New York, moved to recommit the amendment with instructions that it be modified to read as follows:

Provided, That the act of August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," is hereby repealed.

Mr. Gillett made the point of order that the motion was not in order because not germane and because proposing to modify a proposition already agreed to by the House.

After debate, the Speaker² held:

The House will notice that this is a proposition or an amendment covering one specific subject in the tariff act—as to the returns made by corporations. It does not relate to the amount of the tax, the kind of corporations to be levied upon, the time of levying, or touching any other matter, but only and simply the returns of corporations.

Upon the motion to concur with an amendment, which amendment provides for striking out the Senate amendment, and inserting what has just been read the previous question was ordered, and the House has, on a yea-and-nay vote, agreed to the amendment, so that is closed incident.

Now, the argument of the gentleman from New York brings up a very ingenious theory. But the Chair does not feel called upon to decide upon his theory, because it has been held—and, so far as the Chair has been able to ascertain, uniformly held—that where there is a proposition to amend a law in one particular—a specific particular—a proposition to amend generally or to repeal the law would not be germane. The Chair, after a hasty examination, finds as follows:

"Hind's Precedents, volume 5, page 411:

"5806. To a bill amendatory of an existing law as to one specific particular an amendment relating to the terms of the law rather than to those of the bill was held not to be germane."

¹Second session Sixty-first Congress, Record, p. 4144.

²Joseph G. Cannon, of Illinois, Speaker.

Under that decision, if the amendment of the gentleman had been offered before the previous question operated it would not have been in order, as the precedents are uniform that you can not by a motion to recommit make that in order which would not have been in order if ordered as an amendment. Therefore the Chair sustains the point of order.

2708. Instructions accompanying a motion to recommit must be germane to the bill to which proposed.

To a bill providing for a physical valuation of railroads an amendment dealing with the future issuance of railroad stocks and bonds was held not germane.

On December 5, 1912,¹ the House resumed consideration of the bill (H. R. 22593) for the physical valuation of railroads, with a point of order raised by Mr. Thetus W. Sims, of Tennessee, pending against a motion to recommit offered by Mr. James R. Mann, of Illinois, with instructions pertaining to the issuance of railroad stocks and bonds.

After extended debate on the point of order, the Speaker² ruled:

The rule on motions to recommit is this: A proposition is not germane in a motion to recommit unless it would have been germane as an amendment to the bill.

The authorities all run one way. I have investigated them carefully. The rule is not that, if there are two substantive propositions in a bill, you can add anything else to it. The rule is that on such a question as admitting Territories into the Union as States: If you were trying to admit Idaho, for instance, alone, you could not add Montana and Washington, and so forth. But if you turn it around the other way and make the bill general in its character to admit Montana and Idaho and Washington, then you might add to it, as an amendment, Wyoming, for instance.

At one time there was a proposition pending to appropriate money to destroy the boll weevil and the gentleman from Massachusetts, Mr. Gillett, offered a proposition to add some money to destroy the gypsy moth. Mr. Speaker Cannon held that there was no connection between the two propositions, and ruled out the amendment of the gentleman from Massachusetts.

During the term of the present Speaker a proposition was up to prohibit the trading in cotton futures on the exchanges of the country. Some Member offered an amendment to that proposition to include wheat and corn and other products. The Chair ruled it out by citing all these precedents which he has just cited and some additional ones. The Chair was more in favor of prohibiting the dealing in futures in wheat and corn than on cotton, because he has more to do with those products, but that fact did not have anything to do with the parliamentary point. Therefore he sustained the point of order made against the germaneness of the amendment.

The situation here is that the Committee on Interstate and Foreign Commerce brings in a bill which deals with the one subject, and one subject only, and that is to fix a physical valuation of railroads. The only reason that they mention bonds or stocks in the bill at all is that, whether right or wrong, in this country we have fallen into the habit of estimating the value of a railroad by counting in both bonds and stocks, one being property and the other being debts. So that evidently the committee, in reporting this bill, thought that out of deference to the rule which prevails in this country we ought to find out what stocks and bonds have been issued. But this bill as reported nowhere provides or says a word about authorizing or directing anybody to issue stocks and bonds. The motion of the gentleman from Illinois to recommit with instructions has entirely to do with the future issuance of stocks and bonds. It seems to be a very elaborate and perfect scheme. But I have asked the gentlemen who have argued this question in favor of the germaneness of this motion to recommit to point out in the bill a single word or clause that makes the resolution of the gentleman from Illinois germane. And the Chair sustains the point of order made by the gentleman from Tennessee.

¹Third session Sixty-second Congress, Record, p. 173.

²Champ Clark, of Missouri, Speaker.

2709. It is not in order to include in a motion to recommit instructions to insert an amendment not germane to the section of the bill to which offered.

On January 16, 1917,¹ the Post Office appropriation bill was engrossed and read a third time.

Mr. Charles H. Randall, of California, moved to recommit the bill with instructions to report it back with an amendment excluding liquor advertisements from the mails.

Mr. Swagar Sherley, of Kentucky, made the point of order that the motion was not in order because the amendment proposed in the accompanying instructions was not germane to the section of the bill to which offered.

The Speaker² sustained the point of order, and said:

The Chair will read the heading to paragraph 5811 of Hinds' Precedents, Volume V:

"Under the later decisions the principle has been established that an amendment should be germane to the particular paragraph or section to which it is offered." That is the guiding rule, in addition, of course, to the one that it must be germane. Now the merits of this proposition offered by the gentleman from California, the question whether it is a good thing or a bad thing to do, has nothing to do with this point of order. The Chair does not think it is germane to that section, and sustains the point of order against the motion to recommit.

2710. An amendment in instructions accompanying a motion to recommit must be germane and of such a character as would have been in order if proposed as an amendment to the bill.

To a bill authorizing bonds to meet expenditures in the prosecution of the war an amendment proposing a committee to prevent waste in such expenditures was held not to be germane.

On September 6, 1917,³ the bill (H. R. 5901) to authorize an additional issue of bonds to meet the expenditure for the national security and defense, and for the purpose of assisting in the prosecution of the war, was read the third time.

Mr. J. Hampton Moore, of Pennsylvania, moved to recommit the bill to the Committee on Ways and Means with instructions to that committee to report it forthwith to the House with an amendment authorizing the appointment of a committee to cooperate with the President in preventing waste and extravagance in the expenditure of money authorized for the national security and defense.

Mr. Claude Kichin, of North Carolina, made the point of order that the amendment proposed in the instructions was not germane to the bill.

The Speaker⁴ pro tempore ruled:

So that there may be no misunderstanding in the future as to the ruling of the Chair, the Chair desires to state that the gentleman from Pennsylvania is strictly accurate in his assertion that in form the amendment corresponds to the amendment offered by the gentleman from Alabama, Mr. Underwood, to the District appropriation bill some years ago. The amendment proposed by the gentleman from Alabama, however, was an amendment to a Senate amendment which was pending to a bill which originated in the House, and the same rule is not applicable

¹ Second session Sixty-fourth Congress, Record, p. 1487.

² Champ Clark, of Missouri, Speaker.

³ First session Sixty-fourth Congress, Record, p. 6707.

⁴ John J. Fitzgerald, of New York, Speaker pro tempore.

in determining the question of germaneness under such circumstances as is applicable under existing circumstances.

Under the rules of the House motions to recommit with instructions must be germane, and the proposed instructions must be of such a character that if proposed as an amendment to the bill would be in order as an amendment. The Chair is not taken entirely unawares in making the statement about this motion. He was informed that he would be requested to take the Speaker's place because of his unavoidable absence, and the proposed amendment and authorities were submitted to him for an opportunity to give them careful examination. The rule of germaneness is very well established. It is so well established that it is only necessary for the Chair to read the title of the bill. It is:

"A bill to authorize an additional issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend additional credit to foreign governments, and for other purposes."

The present occupant of the chair, under date of September 22, 1914, made an elaborate ruling on the question of germaneness. Repeating a part of that—

"That an amendment be germane means that it must be akin to or relevant to the subject matter of the bill. It must be an amendment that would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane—and such a rule has been adopted in practically every legislative body in the United States—is in the interest of orderly legislation. Its purpose is to prevent hasty and ill-considered legislation, to prevent propositions being presented for the consideration of the body which might not reasonably be anticipated and for which the body might not be properly prepared."

It seems to the Chair that, applying these tests—and these words seem to fit peculiarly into the pending circumstances—to determine if an amendment is germane, the question to be answered is whether the amendment is relevant, appropriate, and in a natural and logical sequence to the subject matter of the bill. The Chair is quite clear that the proposed motion does not conform to any one of the tests that the present occupant indicated were required to be applied to such motion. The Chair sustains the point of order.

2711. A substitute proposing to amend instructions accompanying a motion to recommit must be germane.

On December 10, 1924,¹ the previous question was ordered on the passage of the bill (H. R. 2688) providing for sundry matters affecting the naval service.

The amendments recommended by the Committee of the Whole having been agreed to and the bill having been read the third time, Mr. Tom Connally, of Texas, offered a motion to recommit with instructions to strike out section 21 of the bill.

Mr. Thomas L. Blanton, of Texas, proposed a substitute for the motion to recommit with instructions to strike out a different portion of the bill and insert matter unrelated to section 21.

Mr. James T. Begg, of Ohio, made the point of order that the proposed substitute was germane neither to the motion to recommit nor to the bill.

The Speaker² sustained the point of order.

¹ First session Sixty-eighth Congress, Record, p. 432.

² Frederick H. Gillett, of Massachusetts, Speaker.

2712. It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

An amendment to strike out an amendment already adopted is not in order.

To a bill as amended by the committee to which referred, the original bill was held to be germane when offered as an amendment in instructions accompanying a motion to recommit.

Unless the previous question has been ordered, instructions offered in connection with a motion to recommit may be amended.

On Wednesday, May 22, 1912,¹ the Speaker announced as the unfinished business coming over from the previous Calendar Wednesday, the bill (H. R. 17756) relating to disposition of friar lands in the Philippine Islands.

On the previous Wednesday² Mr. Olmsted had moved to recommit the bill to the Committee on Insular Affairs with instructions to report it back forthwith with an amendment restricting increases in the amount of friar lands any corporation might hold.

To this motion Mr. John A. Martin, of Colorado, offered an amendment in the nature of a substitute striking out all after the enacting clause and inserting the bill as originally referred to the committee.

Mr. Ebenezer J. Hill, of Connecticut, made the point of order that the motion to amend was in violation of the rule permitting only one motion to recommit, as the substitute in effect amounted to a second motion to recommit.

The Speaker³ held:

It has been decided over and over again by Speaker Carlisle, Speaker Crisp and I suppose all the rest of the Speakers, that a motion to recommit either with or without instructions is amendable, and of course that embraces a substitute, for a substitute is a species of amendment. In fact, it was ruled squarely once that it did embrace a substitute. Of course this condition attaches to it, that the matter in the substitute must be germane; that it would have been germane or in order as an amendment when the bill was pending.

Mr. Olmsted then raised the point of order that the amendment was not germane and that in proposing to eliminate an amendment adopted by the House it attempted to accomplish indirectly what could not be effected directly by amendment.

After debate, the Speaker ruled:

The gentleman from Pennsylvania very correctly thinks this ruling is important. I do not know whether I agree with him that it is more important than the bill itself. This question has returned to plague most of the Speakers who ever occupied the chair, and the House, too. In one way and another it has been ruled on ever since the days of Mr. Speaker Taylor, away back in 1826. The situation is this: On the 8th day of this month of May the gentleman from Pennsylvania made a motion to add a certain amendment to the bill, and it was done on a roll call, the bill being considered in the House as in Committee of the Whole. The amendment was adopted by a very large majority. Either on that day or the succeeding day any Member who voted in the affirmative could have moved a reconsideration. The gentleman from Colorado could not do it, because he voted in the negative. So it remains in the bill. After the

¹ Second session Sixty-second Congress, Record, p. 6974.

² Record, p. 6522.

³ Champ Clark, of Missouri, Speaker.

third reading of the bill the gentleman from Pennsylvania made a motion to recommit the bill containing an amendment. The gentleman from Colorado offered a substitute for the amendment which had just been offered by the gentleman from Pennsylvania in his motion to recommit. After some discussion the gentleman from Illinois, Mr. Mann, suggested to the gentleman from Colorado that there was a way for him to accomplish what he was after, provided the Chair ruled his substitute out of order, and that was to strike out all after the enacting clause and to insert the original bill, leaving out the Olmsted amendment which had been adopted on the 8th of May.

Thereupon the gentleman from Colorado accepted the suggestion of the gentleman from Illinois and offered the original bill minus the Olmsted amendment, and thereupon the gentleman from Pennsylvania made two points of order. One, that it was not germane to his amendment and the other that it was an attempt to do indirectly what the House could not itself do directly, thereby contravening both the rules and the practice of the House.

The Chair rules against the gentleman from Pennsylvania on the first proposition, accepting the suggestion of the gentleman from Illinois that at the entire bill as offered by the gentleman from Colorado must in the very nature of things be germane to any amendment that anybody could offer to the bill; that is, for purposes of a motion to recommit.

The contention of the gentleman from Pennsylvania on the subject of germaneness is not tenable. It has been held over and over again that a motion to recommit is amendable, and it has been held at least by one Speaker that a substitute for a motion to recommit is proper. There is no question whatever in the mind of the Chair that the bill itself, minus the first Olmsted amendment, adopted on the 8th of May, is germane to the proposition of the gentleman from Pennsylvania incorporated in his motion to recommit. Therefore the Chair overrules the point of order made by the gentleman from Pennsylvania that it would not be germane.

The second point of order raised by the gentleman from Pennsylvania is whether it is possible to do indirectly on a motion to recommit what the House can not do directly—because that is what it is, and all of us, who have paid any attention to this wrangle, know that there is only one thing involved in that substitute, and that is whether you shall cut out the Olmsted amendment adopted on the 8th of May. It might as well have been offered in so many words for all practical purposes.

This question of whether the House on a motion to recommit can do indirectly what the House itself can not do, has been ruled on by almost every Speaker beginning with Mr. Speaker John W. Taylor, of New York, on the 31st day of January 1826. The question was not always exactly in the shape in which this question presents itself, but the substance has always been the same, and the decisions have always been the same. Mr. Speaker Taylor ruled on it, and later Mr. Speaker Polk, and in later days Mr. Speaker Carlisle and Mr. Speaker Crisp ruled on it. Mr. Speaker Reed, when he was in the chair, ruled on it, and when he was on the floor raised a point of order, referred to the same decision, and held on the floor what he held in the chair; Mr. Speaker Henderson ruled on it; Mr. Speaker Cannon ruled on it.

They all ruled the same way; that is, that the House can not do indirectly on a motion to recommit that which it can not do by amendment before engrossment and third reading.

The contention of the gentleman from Pennsylvania that you can not have two propositions in a motion to recommit is not tenable. The motion to recommit is intended to give the House an opportunity to express its opinion, upon roll call if needs be, upon any proposition or propositions which have not been inserted in the bill, provided always, of course, that the proposition is germane to be bill itself.

The Speaker then quoted from a decision¹ by Speaker Carlisle, and continued:

Nobody will contend, if some gentleman had arisen in his place and made motion to strike out this Olmsted amendment which was inserted on the 8th day of May, that the Chair would have entertained the motion.

¹Section 5531 of Hinds' Precedents.

So, on that point the Chair sustains the point of order made by the gentleman from Pennsylvania, Mr. Olmsted, that the substitute offered by the gentleman from Colorado, Mr. Martin, is out of order because the House can not by a motion to recommit do that which it can not do directly by amendment when a bill is in the amendable stage.

2713. It is not in order in a motion to recommit to propose to strike out or modify an amendment previously adopted by the House.

A motion to recommit having been ruled out of order, the proponent is entitled to prior recognition to offer a second motion to recommit.

Two motions to recommit offered by a Member having been ruled out of order, the Speaker recognized him to submit a third motion to recommit when convinced that it was not offered for dilatory purposes.

In recognitions to move to recommit, a Member opposed to the bill as a whole has preference over one opposed to the bill in part, and a Member opposed to the bill in part takes precedence of a Member favoring the bill.

The question as to whether a motion is dilatory is determined within the discretion of the Speaker by the evident motive of the Member presenting it.

On June 25, 1914,¹ the House resumed consideration of the sundry civil appropriation bill, on which the previous question had been ordered on the preceding day.

The bill having been read a third time, Mr. Augustus P. Gardner, of Massachusetts, moved to recommit the bill to the Committee on Appropriations with instructions to increase the amount of the appropriation for the immigration service fixed by an amendment proposed by Mr. H. Garland Dupré, of Louisiana, and adopted by the House.

Mr. John J. Fitzgerald, of New York, made the point of order that the amount proposed to be changed by the motion to recommit having been adopted by the House in the form of an amendment, it was not now permissible to entertain a proposal to change it.

Mr. James R. Mann, of Illinois, in opposing the point of order, said:

It is for the House to determine on the motion to recommit whether it may strike out any portion of the engrossed bill. The bill as an engrossed bill is an entirety. The gentleman might offer a motion to strike out any paragraph in the bill or to amend with a germane amendment any paragraph in the bill. The gentleman now moves to recommit to amend an amount in the bill. There is no sacredness about the fact that that amount has been inserted by amendment. That has no more effect than any other amount that is in the bill which has been passed without change. All that has been agreed to by the committee, all that has been agreed to by the House, to the extent of ordering the bill to be engrossed and read a third time, and any amendment which is germane to the bill may now be offered as a motion to recommit.

The Speaker² ruled:

The chair, of course, is always very careful to listen to any arguments on parliamentary points that are made by the gentleman from Massachusetts, Mr. Gardner, or the gentleman from Illinois, Mr. Mann, because they have studied these matters a great deal.

A brief statement of this case is that the gentleman from Louisiana, Mr. Dupré, offered an amendment striking out and inserting. That was agreed to. The Committee of the Whole

¹Second session Sixty-third Congress, Record, p. 11122.

²Champ Clark, of Missouri, Speaker.

had a perfect right to vote down the Dupré amendment if it wanted to. There was no constraint upon it to vote for Mr. Dupré's amendment unless it so desired, and the Congressional Record shows that it was very elaborately argued by able men. The only question is whether after that has been done you can do it over again. That is a question that has been decided, not very frequently, but still ever since the days of Thomas Jefferson. On page 194 of Jefferson's Manual, section 466, there is the following:

"But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A."

The rule to recommit which is pertinent here is this: That you can not do anything by a motion to recommit that you could not do in the committee by way of amendment. The gentleman from Massachusetts was shut out in the Committee of the Whole.

One of the best presiding officers who was not a Speaker who has been in this House since the gentleman from Illinois, the gentleman from Massachusetts, or the present occupant of the chair has been here, was the gentleman from Pennsylvania, Mr. Marlin E. Olmsted. In section 5766 of Hinds' Precedents, volume 5, the case is well stated by that gentleman.

"Words embodying a distinct substantive proposition being agreed to as an amendment, it is not in order to amend by striking out a part of those words with other words."

The present Speaker ruled to the same effect, without giving any reasons for it, on February 6, 1913, on the District appropriation bill. So far as one of the propositions of the gentleman from Illinois is concerned, the present Speaker, in section 948 of the Manual, after a very thorough study—because the matter came up on a Wednesday and went over until the next Wednesday—rendered an elaborate opinion about doing by indirection what one can not do by direction. It can not be done.

The motion to recommit is ruled out of order.

Mr. Gardner then asked recognition to offer a further motion to recommit.

Mr. Fitzgerald proposed a motion to recommit, and submitted that as Mr. Gardner had once been recognized to move recommitment the right to recognition for that purpose passed to another Member.

The Speaker, after ascertaining that both gentlemen favored the bill but opposed the form in which written, ruled:

The Chair held, touching the mode and practice here three years ago, that where the gentleman from Illinois made a motion to recommit and the Chair ruled it out as being not germane, he would give him another chance to offer another motion, and the Chair recognized the gentleman from Illinois to make two motions to recommit; but, of course, there ought to be a limit somewhere. Now, being opposed to a bill has various degrees. You may be opposed to it absolutely and essentially; and, of course, if a man in that frame of mind were asked the question if he is opposed to the bill and if he says he is he says he is without any hesitancy; but suppose a man is only opposed to part of a bill, he has a right to recognition in preference to a man in favor of the bill.

The Speaker thereupon recognized Mr. Gardner, who moved to recommit the bill with instructions to insert as a new item provision for an additional appropriation for the immigration service.

Mr. Fitzgerald made the point of order that an appropriation of additional money must be offered as an amendment to the paragraph in the bill dealing with that subject and not in a separate paragraph as proposed by the pending motion to recommit, and cited in support of his contention sections 5818 and 5820 of Hind's Precedents.

The Speaker sustained the point of order.

Mr. Gardner proposed to offer a third motion to recommit.

Mr. Fitzgerald made the point of order that the motion was dilatory.

The Speaker said:

The Chair thoroughly agrees with the gentleman from Massachusetts that he has the right to make a motion to recommit, and the Chair recognized him twice to make another motion to recommit along the same lines. The Chair thinks the present motion is dilatory, with all due respect to the gentleman from Massachusetts.

Mr. James R. Mann, of Illinois, submitted that the question as to whether a motion was dilatory was not to be determined by the number of times previously presented but by the evident motive of the Member presenting it.

The Speaker agreed:

The gentleman from Illinois states the question of dilatoriness correctly; that is, every man must come to his own conclusion, and the Speaker has to come to his as to whether or not the motion is dilatory.

The gentleman from Massachusetts will send up his motion, and the Clerk will report it.

The Clerk read as follows:

Mr. Gardner moves to recommit the bill to the Committee on Appropriations with instructions to insert, on page 150, line 21, at the end of the line, the following: "*Provided further*, That the following additional amount be, and the same is hereby, appropriated for the expenses of the Immigration Service in the enforcement of all immigration laws, \$260,000."

Mr. Fitzgerald having again raised the point of order that the motion to recommit proposed to change an amendment already adopted by the House, the Speaker held:

The Committee of the Whole deliberately reduced the amount. Now the gentleman comes with his proposition and undertakes to increase the amount. The Chair rules it out of order.

2714. It is not in order to propose in connection with a motion to recommit instructions to amend an amendment which has been adopted by the House.

Recognition to offer a motion to recommit is governed by the attitude of the Member towards the bill, and a Member opposed to the bill without qualification is entitled to preference over a Member opposed to the bill in its pending form.

The simple motion to recommit and the motion to recommit with instructions are of equal privilege under the rule and neither has precedence over the other.

On August 23, 1922,¹ following the third reading of the bill (H. R. 12377) for the establishment of a national coal commission, Mr. Finis J. Garrett, of Tennessee, proposed to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report it back forthwith with an amendment striking out a portion of an amendment just agreed to by the House.

Mr. James R. Mann, of Illinois, rose to a point of order, and said:

Mr. Speaker, I make a point of order that a motion to recommit is not in order. Beginning a good many years ago, and perhaps not beginning at that time, Speaker Clark ruled that it was

¹Second session Sixty-seventh Congress, Record, p. 12753.

not in order, in a motion to recommit, to move to strike out any part of an amendment which had just been voted upon and agreed to by the House. That ruling has been consistently followed ever since the original distinct ruling was made. This is a motion to recommit with instructions to strike out a portion of an amendment just voted in and comes clearly within the ruling of Speakers heretofore.

After further debate, the Speaker¹ ruled:

The precedents are very clear, and the Chair sustains the point of order.

Mr. William B. Bankhead, of Alabama, and Mr. Meyer London, of New York, simultaneously asked recognition to offer a further motion to recommit. In response to an inquiry from the Speaker, Mr. Bankhead announced that he was opposed to the bill in its present form. Mr. London declared himself as being unqualifiedly opposed to the bill.

The Speaker recognized Mr. London, and said:

The Chair does not care to hear further argument. After the third reading of the bill the gentleman from Tennessee so far as the Chair knew, was the only gentleman to offer a motion to recommit. The Chair asked him if he was opposed to the bill, and he said he was. The Chair therefore recognized him. That motion to recommit was ruled out on a point of order. The gentleman from Indiana then offered to make a motion to recommit and the Chair put to him the usual question, not knowing at that time that any other gentleman wishes to make such a motion. The Chair really expected to recognize the gentleman from Indiana, although the gentleman said that he was not opposed to the bill, but did not like its present form, because the Chair did not know that anyone else desired to be recognized. Immediately then—and that was the first time the Chair had any intimation that the gentleman from New York wanted to make a motion—the gentleman from New York rose and said that he was opposed to the bill, and offered a motion to recommit. The Chair has no alternative except to recognize him for the purpose of making that motion.

Mr. Oscar E. Bland, of Indiana, as a parliamentary inquiry, asked if a motion to recommit with instructions took precedence of a simple motion to recommit.

The Speaker answered in the negative.

2715. A motion to recommit with instructions to strike out an amendment already agreed to by the House is not in order.

On February 6, 1913,² the Committee of the Whole House on the state of the Union reported to the House the District of Columbia appropriation bill, with sundry amendments, including an amendment proposed by Mr. Albert S. Burleson, of Texas, providing an appropriation for the payment of interest on the funded debt of the District of Columbia.

The amendments recommended in the committee having been agreed to, the bill was ordered to be engrossed and was read a third time.

Mr. Eben W. Martin, of South Dakota, moved to recommit the bill to the Committee on Appropriations with instructions to report it back forthwith with an amendment striking out the amendment offered by Mr. Burleson and substituting in lieu thereof an amendment changing the amount of the appropriation.

Mr. John J. Fitzgerald, of New York, raised a question of order against the motion to recommit on the ground that it proposed to strike out matter just adopted by the House.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Third session Sixty-second Congress, Record, p. 2660.

The Speaker¹ sustained the point of order.

2716. On February 28, 1916,² the Post Office appropriation bill having been read the third time, Mr. Joseph G. Cannon, of Illinois, moved to recommit it with instructions striking out a portion of section 17 which had been inserted by the House as an amendment.

Mr. James R. Mann, of Illinois, raised a question of order against the motion, and said:

Mr. Speaker, I make the point of order that the motion is not in order. The Speaker has ruled upon this matter a number of times. Section 17 was an amendment reported from the Committee of the Whole House on the state of the Union to the House. The House has just agreed to section 17. The speaker commencing with the Philippine bill and repeated several times since, has ruled that where the House has agreed to an amendment it is not in order to move to recommit and to change that amendment where the House had acted upon it.

Mr. Cannon submitted:

I have no recollection, either from precedents, or my own experience as a Member of the House, or as Speaker, of such a question having arisen. And yet there is the letter of the rule, and the spirit of the rule, it seems to me, would give the House the privilege of entertaining and passing upon this motion.

After further debate, the Speaker³ ruled:

Jefferson's Manual, section 466 of the Manual, reads as follows:

"But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A."

On the 22d day of May, 1912, in that Philippine case to which the gentleman from Illinois refers, the circumstances were these: That just about this time in the evening on Calendar Wednesday the point of order was raised, and it went over until the next Wednesday, so that the Chair, who happened to be myself, had ample time to study it and render an opinion—and it is rather an elaborate opinion—in which the Chair held that this thing which the gentleman from Illinois is trying to do could not be done. To buttress my own opinion I quoted at length from an opinion rendered by Mr. Speaker Carlisle. And there is a long string of decisions that might have been cited. The decisions runs clear back to Mr. Speaker Taylor, of New York. And the Chair now sustains the point of order made by the gentleman from Illinois.

2717. A motion to recommit including instructions to strike out an amendment or portion of an amendment already agreed to by the House is not in order.

On December 18, 1918,⁴ the Post Office appropriation bill was reported back to the House with sundry amendments, including an amendment proposed by Mr. William R. Green, of Iowa.

The amendments were agreed to, and the bill was ordered to be engrossed and was read a third time.

Mr. William A. Ayres, of Kansas, moved to recommit the bill with instructions to strike out the amendment offered by Mr. Green.

¹ Champ Clark, of Missouri, Speaker.

² First session Sixty-fourth Congress, Record, p. 3275.

³ Champ Clark, of Missouri, Speaker.

⁴ Third session Sixty-fifth Congress, Record, p. 645.

Mr. James R. Mann, of Illinois, made the point of order that the amendment having been agreed to by the House a proposal to strike it out was not admissible, and suggested that the proper procedure would have been to have offered an amendment to the amendment when it came before the House, the previous question not having been ordered, or to have demanded a separate vote on the amendment when the amendments recommended by the Committee of the Whole were voted upon in gross.

The Speaker ¹ held:

The gentleman's contention is correct. The motion to recommit is not in order. If the thing could be done which the gentleman from Kansas is trying to do, discussion of the bill in Committee of the Whole would be almost useless.

2718. On February 21, 1929,² the bill (S. 1781) to establish load lines for American vessels, was read for the third time, when Mr. John C. Schafer, of Wisconsin, moved to recommit the bill to the Committee on the Merchant Marine and Fisheries with instructions to report it back forthwith with an amendment striking out all of section 9.

Mr. Frederick R. Lehlbach, of New Jersey, made the point of order that section 9, which was proposed to be stricken out, was a committee amendment on which the gentleman could have requested a separate vote, and which had just been agreed to by the House.

The Speaker ³ sustained the point of order.

2719. It is not in order by way of a motion to recommit to strike out any portion of an amendment inserted by the House.

On January 18, 1919,⁴ the pending question was on the passage of the legislative, executive, and judicial appropriation bill.

Mr. Warren Gard, of Ohio, proposed a motion to recommit the bill to the Committee on Appropriations, with instructions to report it back forthwith with an amendment striking out a portion of an amendment agreed to by the House and inserting other provisions in lieu thereof.

Mr. James R. Mann, of Illinois, made the point of order that the amendment carried by the motion to recommit proposed to strike out an amendment just inserted by the House.

The Speaker ⁵ ruled:

The point of order is sustained. The gentleman's motion to recommit in the nature of an amendment or instruction would repeal the Stafford amendment that has just been put into the bill by a vote of the House.

Mr. Gard argued that only a portion of the amendment was involved.

The Speaker said:

If it is bad in part, it is bad in the whole. The question is on the passage of the bill.

¹ Champ Clark, of Missouri, Speaker.

² Second session Seventieth Congress, Record, p. 3975; Journal, p. 402.

³ Nicholas Longworth, of Ohio, Speaker.

⁴ Third session Sixty-Fifth Congress, Record, p. 1699.

⁵ Champ Clark, of Missouri, Speaker.

2720. It is not in order to modify, by instructions proposed in a motion to recommit, amendments previously adopted by the House.

On April 12, 1926,¹ pending the question on the passage of the bill (S. 41) to regulate the use of aircraft in commerce, Mr. George Huddleston, of Alabama, moved to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to strike out language adopted by the House and insert in lieu thereof certain other provisions.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion to recommit included a proposition to amend an amendment already adopted by the House.

The Speaker² held:

The Chair is inclined to think that the point of order of the gentleman from Illinois is well taken, that this is an effort to amend an adopted amendment, which is out of order under the rule. The Chair sustains the point of order.

2721. On April 12, 1926,³ the Committee of the Whole House on the state of the Union reported to the House with amendments the bill (S. 41) to encourage and regulate the use of aircraft in commerce.

The amendments were agreed to, and the bill having been read a third time, Mr. George Huddleston, of Alabama, moved to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to that committee to report it back to the House forthwith, with various amendments modifying certain amendments just agreed to by the House.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion to refer might not include instructions to modify action taken by the House.

The Speaker⁴ sustained the point of order and said:

The point of order of the gentleman from Illinois is well taken. This is an effort to amend an adopted amendment, which is out of order under this rule. The Chair sustains the point of order.

2722. On June 11, 1930,⁵ the bill (H. R. 7638) to authorize the acquisition for military purposes of land in Alabama, was ordered to be engrossed and read a third time, and was read a third time.

Mr. John Taber, of New York, offered a motion to recommit the bill to the Committee on Military Affairs with instructions to that committee to report it back forthwith with an amendment modifying an amendment reported by the Committee of the Whole and agreed to by the House.

Mr. William H. Stafford, of Wisconsin, made the point of order that an amendment could not be included in a motion to recommit which proposed to modify an amendment previously incorporated in the bill by the House.

¹ First session Sixty-ninth Congress, Record, p. 7330.

² Nicholas Longworth, of Ohio, Speaker.

³ First session Sixty-ninth Congress, Record, p. 7330.

⁴ Nicholas Longworth, of Ohio, Speaker.

⁵ Second session Seventy-first Congress, Record, p. 10511; Journal, p. 676.

The Speaker ¹ held:

The rule is very clear that when the House has agreed to an amendment, it can not thereafter by a motion to recommit change that amendment. So the Chair sustains the point of order.

2723. An amendment adopted by the House is not subject to modification by instructions accompanying a motion to recommit.

On June 28, 1922,² the previous question had been ordered on the bill (S. 3425) to continue certain land offices.

Mr. Louis C. Cramton, of Michigan, moved to recommit the bill to the Committee on Public Lands with instructions to report it back forthwith with an amendment including in the bill certain offices stricken out by an amendment previously agreed to by the House.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to nullify an amendment inserted by the House.

The Speaker ³ ruled:

The rule is laid down very conclusively. After the House has adopted an amendment, as it has in this case, it is not subject to amendment indirectly by a motion to recommit. The Chair sustains the point of order.

2724. It is not in order to propose to recommit with instructions to perfect an amendment previously agreed to by the House.

On October 25, 1921,⁴ the pending question was on the passage of the joint resolution (S. J. Res. 114) providing for participation in an exposition at Rio de Janeiro.

Mr. William H. Stafford, of Wisconsin, moved to recommit the joint resolution to the Committee on Industrial Arts and Expositions with instructions to report it back forthwith with an amendment increasing the amount of the appropriation, which amount had previously been inserted by amendment.

Mr. Everett Sanders, of Indiana, raised a question of order and submitted that the motion to recommit proposed to modify an amendment adopted by the House and was not in order.

In debating the point of order, Mr. Joseph Walsh, of Massachusetts, said:

Mr. Speaker, the original ruling was made, I think, by Mr. Speaker Clark to the effect that, the House having voted on an amendment, it was not in order in a motion to recommit with instructions to strike out or eliminate that amendment. That ruling has been held, but I do not recall any ruling which went to the effect that the House, having voted upon an amendment, that amendment could not be further amended or perfected by a motion to recommit. In fact, I think there is one precedent in Hinds to the effect that after the previous question has been ordered a motion to recommit can strike out a portion of an amendment already agreed to by the House, and it would seem that this comes within that class of cases. If the gentleman from Wisconsin had moved to strike out the amendment which had already been agreed to, it clearly would come within the ruling made by former Speaker Clark, but he has only struck out a portion of it, and substituted other matter, further amending or perfecting it. I know of no ruling which would restrain the House from doing that under a motion to recommit.

¹ Nicholas Longworth, of Ohio, Speaker.

² Second session Sixty-seventh Congress, Record, p. 9639.

³ Frederick H. Gillett, of Massachusetts, Speaker.

⁴ First session Sixty-seventh Congress, Record, p. 6775.

The Speaker ¹ ruled:

The Chair thinks there is much force in the statement of the gentleman from Arkansas, Mr. Wingo, that a motion to recommit is intended to give the minority—not the political minority, but a minority of the Members—an opportunity to express itself. But there are a number of predicaments that arise where that can not be done. The Chair thinks the gentleman from Indiana, Mr. Sanders, has clearly expressed it in saying that we can not do indirectly what we can not do directly. A proposed amendment must be amended, if at all, before it is adopted and not after it has been adopted. Therefore, it can not be amended in a motion to recommit. The Chair thinks the motion to recommit is not in order.

2725. On March 1, 1923,² the House resumed consideration of the bill (S. 4280) providing for farm credits, on which the previous question has been ordered to final passage.

Amendments recommended by the Committee of the Whole were agreed to, and the bill was ordered to be engrossed and was read a third time.

Mr. Robert Luce, of Massachusetts, offered a motion to recommit the bill to the Committee on Banking and Currency with instructions to that committee to report it back forthwith with an amendment amending an amendment adopted by the House.

Mr. Cassius C. Dowell, of Iowa made the point of order that an amendment once adopted by the House might not be amended by instructions embodied in a motion to recommit.

The Speaker pro tempore ³ held:

It is well settled by the precedents in the House of Representatives that an amendment once agreed upon by the House may not be amended on a motion to recommit. These rulings run through the precedents of the House of Representatives so far back that it is not necessary for the Chair even to make a review of them. The Chair sustains the point of order.

2726. It is not in order to propose in instructions embodied in a motion to recommit any proposition which would not be in order if proposed as an amendment to the bill.

While an amendment once passed upon by the House is not again in order, a change in phraseology sufficient to present a substantially different proposition renders it admissible.

On October 3, 1918,⁴ the Speaker announced as the unfinished business the bill (H. R. 12404) for a building for the Public Health Service in the city of Washington, which had been reported from the Committee of the Whole House on the state of the Union with one amendment, as follows:

In carrying the foregoing authorization for additional buildings to the Hygienic Laboratory into effect the Secretary of the Treasury may enter into contracts or purchase materials in the open market, or otherwise, and employ laborers and mechanics for executing the work as in his judgment may best meet the public exigencies, within the limits of the authorization herein made.

The question being taken on agreeing to the amendment, it was decided in the affirmative, yeas 63, nays 44, and the bill as amended was ordered to be engrossed and was read a third time.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Fourth session Sixty-seventh Congress, Record, p. 5013.

³ Philip P. Campbell, of Kansas, Speaker pro tempore.

⁴ Second session Sixty-fifth Congress, Record, p. 11098.

Mr. James W. Good, of Iowa, moved to recommit the bill to the Committee on Public Buildings and Grounds with instructions to forthwith report the same with the following amendment:

That no contract shall be let by the Secretary of the Treasury for the purchase of any material therefor, or for the employment of labor to construct said building on the cost-plus basis.

Mr. Finis J. Garrett, of Tennessee, raised a question of order against the motion to recommit, and submitted that the committee amendment just agreed to by the House authorized the Secretary of the Treasury to proceed "as in his judgment may best meet the public exigencies," and the proposed amendment in effect repealed that authorization, and amounted to a proposal to again vote upon a proposition already disposed of.

After the debate, the Speaker¹ ruled:

The question has arisen several times and Mr. Speaker Blaine rendered an opinion on the subject which goes the whole way. Objection was made practically on the same ground, and Mr. Speaker Blaine said:

"The Chair overrules the point of order. The gentleman might not be able to offer the resolution in precisely the same words, but this is a different resolution, differently worded, and it is a question of privilege, and is in order at any time. The difference of a single word would bring it within the rule of the House."

The point of order is overruled, and the question is on the motion to recommit.

2727. Although it is not in order in connection with a motion to recommit to offer instructions striking out an amendment agreed to by the House and insert other provisions in its place, it is in order to propose instructions to strike out such an amendment with other portions of the original paragraph so that a text of different meaning may be inserted.

Discussion of the history and function of the motion to recommit.

On October 7, 1919,² the previous question had been ordered on the passage of the bill (H. R. 5218) for a tariff on magnesite ores.

The question being on the passage of the bill, Mr. Claude Kitchin, of North Carolina, offered a motion to recommit it to the Committee on Ways and Means with instructions to report back instantan with the following amendment:

Strike out all after the enacting clause and insert in lieu thereof the following: "That on and after the day following the passage of this act there shall be levied, collected, and paid upon the articles named herein, when imported from any foreign country into the United States or into any of its possessions, the rates of duties which are herein prescribed, namely:

"1. Magnesite, commercial ore, either crushed or ground, one-eighth of a cent per pound, etc."

Mr. Nicholas Longworth, of Ohio, raised a question of order, and said:

Mr. Speaker, it would not have been in order for the gentleman to offer any amendment which would have changed in any manner a committee amendment, but by a subterfuge of striking out all after the enacting clause he seeks to do what he otherwise could not do legitimately. Section 948 of the Manual holds that it is not in order to move to recommit with instructions to eliminate an amendment adopted by the House. That is exactly what the gentleman from North Carolina

¹ Champ Clark, of Missouri, Speaker.

² First session Sixty-sixth Congress, Record, p. 6531.

is seeking to do by this motion. The committee adopted an amendment placing a duty of one-half a cent a pound on magnesite ore. The gentleman by his motion attempts to reduce that duty and make another rate of duty. The effect is to amend a committee amendment, which is not in order, that amendment having already been adopted by the House. The Chair will recall that the House has adopted all of the committee amendments, which fixed a certain specific rate of duty in each one of these three paragraphs of the bill. It is a mere subterfuge to move to strike out all after the enacting clause and to change those rates of duty. The gentleman would not have the right to change the rate of duty in any one of these paragraphs. Therefore he has not the right to change them in all three.

In combating the point of order, Mr. Charles R. Crisp, of Georgia, argued:

The object of a motion to recommit is clearly to give the minority of the House—the legislative minority and not the political minority—a chance affirmatively to go on record as to what they think this legislation should be, and if a motion to recommit does not permit that, then the motion is futile. I know the decision to which the gentleman has cited the Chair. That simply provides that you can not offer to strike out some amendment that the House has adopted, upon the theory that when the House had once acted on a matter there ought to be an end to it. I will concede that the effect of the motion is to change the rates in this bill, and that is the only office of a motion to recommit. It is to give the minority the right affirmatively to go on record as to their views. If the motion to recommit does not mean it, it is absolutely a useless motion.

Mr. Joseph Walsh, of Massachusetts, said in rebuttal:

It will be noted that in the motion to recommit the only changes made are in the rates which have been fixed in the bill, which have been adopted by the House. If the gentleman offered a motion to recommit and proposed in his motion to change those rates, it would clearly be out of order; and I submit that even if he offered a motion to strike out all after the enacting clause and then reinserted all of the bill, which he does not seek to change, and only changes on the rates, that does not bring it without the provisions of the rule, and that is what the gentleman has done, as the gentleman from Ohio has most clearly stated. The only changes in this bill which the gentleman from North Carolina seeks to make are changes in the rates fixed in the committee amendments which have already been adopted by the House. The mere fact that he seeks to strike out all after the enacting clause and reinsert the provisions of the bill which he does not propose to change, and then changes the rates that have already been adopted by the House in the form of committee amendments, clearly brings it within the ruling made by former Speaker Clark. If in his motion to strike out all after the enacting clause he had substituted an entirely different bill, the rule probably would not apply; but he has not done that. He simply seeks to change the amendments which have already been adopted by the House, and it would seem as though that would bring it within the rule that a motion to recommit can not be made to eliminate or modify amendments which have been acted upon and adopted by the House.

Mr. Finis J. Garrett, of Tennessee, submitted:

First, let us bear in mind that the motion to recommit is regarded as so sacred that it is one of the few things protected against the Committee on Rules by the general rules of the House. It is expressly provided in the general rules of the House that the Committee on Rules may not bring in a resolution which will prevent one motion to recommit. Of course, the reason for that is to protect the minority of the House—that is, the legislative not the political minority—in its right to present a concrete, comprehensive proposition of legislation. If the reasoning of the gentleman from Massachusetts be followed to its logical end, what is the result? Appropriation bills may be brought before the House, considered and amended in Committee of the Whole, reported to the House with amendments, and those amendments adopted, and a motion would not be in order to recommit, reducing by a single cent one of the appropriations that have been made in any amendment to the bill as adopted by the House. If the Speaker should sustain this point of order, the practical effect of that ruling would be to do by a parliamentary decision that which the Committee on Rules and the House itself can not do under the general rules of the House. It will practically destroy the efficacy of the motion to recommit with instructions.

As I remember the ruling of Mr. Speaker Clark, the case was this: The amendment which was to be affected by the motion to recommit was one that had been adopted by the House. It was to be affected by striking out the amendment—destroying it, not modifying it, not changing it, but striking it out—and of course the House had had its opportunity to do that when it voted upon the proposition. But to say that upon a revenue bill the minority of the House shall not have an opportunity to amend an amendment in one motion to recommit, oh, the gentleman surely does not propose to insist upon that.

You can not strike it out, because the House has already adopted it. That would be taking two bites at the cherry, but surely you may present in one motion to recommit a germane proposition modifying that amendment. Otherwise the minority has no chance to make an affirmative record.

The Speaker¹ ruled:

The Chair will state, to save the time of the House, that it does not seem to the Chair it is of very great importance in immediate effect which way he rules now, and the Chair would like to state his ruling provisionally, so that it will not bind him in the future. It is a subject that is somewhat intricate, and he would like to look up all the rulings and consider the principles and results before he comes to a final decision. But it does seem to the Chair that technically the decision which has been cited by the gentleman from Ohio covers this case and makes it out of order. On the other hand is the fact that a motion to recommit is intended to give the minority one chance to express fully their views so long as they are germane. And so it seems to the Chair that the general spirit and purpose of the motion ought to admit one like this. As the Chair says, the decisions cited seem to him very technical, but they do seem to him to be in the other direction; and therefore the Chair, to save time, overrules the point of order, reserving the right not to be bound by it in the future, when he shall have had opportunity to thoroughly study the question.

The whole purpose of this motion to recommit is to have a record vote upon the program of the minority. That is the main purpose of the motion to recommit, and while the decision has been cited—and the argument of the gentleman from Kansas does seem to the Chair to forcibly indicate how a committee wishing to avoid allowing the minority to get a record vote could always ingeniously bring in a bill and perfect it by amendments, and then have those amendments adopted in the House, and thereby, according to this ruling, prevent the minority from ever bringing its program before the House, yet it seems to the Chair that thereby they would nullify the main purpose of the motion to recommit. So the Chair will provisionally decide that the point of order is not good. The question is on agreeing to the motion to recommit.

2728. While a motion to recommit may not provide instructions to strike out an amendment agreed to by the House, it may nevertheless provide instructions to insert an amendment previously rejected by the House.

On August 1, 1919,² the bill (H. R. 7500) to protect the coastwise trade of the United States, was under consideration in the House.

Mr. Julius Kahn, of California, offered an amendment providing that the repeal of the law permitting vessels of foreign registry to engage in the coastwise trade should not take effect as to the Territory of Hawaii until July 1, 1920.

The question being taken, the amendment was rejected.

The bill was ordered to be engrossed, and was read a third time, when Mr. Kahn offered a motion to recommit with instructions to insert the amendment just disagreed to by the House.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² First session Sixty-sixth Congress, Record, p. 3524.

Mr. Frank D. Scott, of Michigan, made the point of order that instructions contravening the action of the House on proposed amendments were not in order in connection with a motion to recommit.

In discussing the point of order, Mr. James R. Mann, of Illinois, argued:

Speaker Clark held repeatedly, and it became the rule of the House, that where an amendment had been agreed to by the House it was not then in order to offer a motion to recommit striking out that amendment. That had not been the rule of the House prior to the occupancy of the Speaker's chair by the very distinguished gentleman from Missouri. But I do not recollect that he ever went so far—I am quite sure my recollection is correct upon the subject—as to hold that where the House had rejected an amendment it could not be included in a motion to recommit. It does not come within the reasoning which Speaker Clark used—a line of reasoning which I always doubted—that the House having just agreed to an amendment, it was not in order to offer a motion to recommit to strike out the amendment. Of course, it is perfectly patent that the rejection of an amendment by the Committee of the Whole would not prevent the offering of a motion to recommit.

The Speaker¹ affirmed:

A citation has been put before the Chair in accordance with the argument just made by the gentleman from Illinois and the Chair overrules the point of order.

2729. A motion to recommit may not include instructions to report out any measure other than that proposed to be committed.

It is not in order to move to direct a committee to report out a bill not recommitted to it.

On April 2, 1908,² the Committee of the Whole House on the state of the Union was considering the resolution (H. Res. 233) to dispose of the President's special message of January 31, 1908.

Mr. John S. Williams, of Mississippi, offered an amendment proposing to instruct the Committee on the Judiciary to—

Report bill 7636, being the bill introduced by Mr. Clayton, of Alabama, to prevent temporary restraining orders invalidating on ex parte testimony State laws, and House bill 69, introduced by Mr. Henry, of Texas, providing in case of temporary injunction for notice to the defendant and opportunity to be heard.

Mr. Sereno E. Payne, of New York, raised a question of order against the motion.

The Chairman³ ruled:

The Chair understands it is a well-established principle that it is not within the power of the House to order a committee to report a particular bill. What the House can not do directly the committee can not do indirectly. These bills are not before the House. The Chair sustains the point of order.

2730. The term reported "forthwith" when employed in instructions accompanying a motion to recommit to a committee was construed to mean report "at once."

Instructions to report "forthwith" accompanying a motion to recommit must be complied with, and the chairman of the committee or one for him must actually report the bill back to the House as instructed.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² First session Sixtieth Congress, Record, p. 4332.

³ George P. Lawrence, of Massachusetts, Chairman.

On a motion to recommit a bill with instructions to report it back, the time of such report is within the option of the committee, and unless directions are included in the instructions to report back “forthwith” the time of making such report may be delayed at its pleasure.

On March 23, 1908,¹ the Committee of the Whole House on the state of the Union reported to the House the bill (H. R. 4063) for widening a road in the District of Columbia, with the recommendation that it be passed.

The bill was ordered to be engrossed and read the third time, when Mr. Thetus W. Sims, of Tennessee, moved to recommit the bill to the Committee on the District of Columbia, with instructions to report it back with certain amendments.

The motion was agreed to, and Mr. Sims asked that the bill be taken up for amendment as instructed.

The Speaker² held that inasmuch as the instructions had not required the bill to be reported back “forthwith” it was within the jurisdiction of the committee and would be reported out at their pleasure.

On motion of Mr. Sims, the vote by which the bill had been recommitted to the Committee on the District of Columbia was reconsidered and disagreed to.

Mr. Sims then moved that the bill be recommitted to the Committee on the District of Columbia with instructions to report it back forthwith with amendments originally proposed.

Mr. Samuel W. Smith, of Michigan, the chairman of the Committee on the District of Columbia, having raised a question as to the status of the bill and the definition of the term “forthwith,” the Speaker said:

The present status is the bill referred to awaits a report from the gentleman. It means forthwith. It requires, as the Chair understands it, a report of the bill from the committee, under instructions of the House.

Mr. Sims asked unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Speaker reminded:

But the gentleman must first report the bill.

Mr. Smith reported the bill to the House from the Committee on the District of Columbia.

The title of the bill and the amendment contained in the instructions having been read by the Clerk, the amendment was agreed to, and the bill as amended was ordered to be engrossed, was read a third time, and passed.

2731. Instructions to report “forthwith” are in order in a motion to recommit notwithstanding the fact that the extent of textual changes provided by the motion preclude immediate report.

Recognition to move recommitment is governed by the attitude of the Member toward the bill, and a Member opposed to the bill as a whole is entitled to prior recognition over a Member opposed to a portion of the bill.

¹First session Sixtieth Congress, Record, p. 3763.

²Joseph G. Cannon, of Illinois, Speaker.

On February 21, 1913,¹ the question being on the passage of the sundry civil appropriation bill, Mr. S. A. Roddenbery, of Georgia, and Mr. Frank W. Mondell, of Wyoming, simultaneously requested recognition to move to recommit.

In response to an inquiry from the Speaker, Mr. Mondell said:

I am opposed to the portion of the bill that I propose to have stricken out.

Mr. Roddenbery said:

I am opposed to the bill.

Mr. James R. Mann, of Illinois, argued that Mr. Mondell, as a member of the Committee on Appropriations, was entitled to recognition over Mr. Roddenbery, who was not a member of that committee.

The Speaker² held that the attitude of the Member on the bill was the criterion by which right to recognition to move to recommit was determined, and recognized Mr. Roddenbery.

Mr. Roddenbery moved to recommit the bill to the Committee on Appropriations, with instructions to report the same back to the House forthwith, amended as follows:

Strike out each and every sum of money therein appropriated, including totals, and substitute therefor 90 per cent of each and every such sum of money therein appropriated, including totals, so that each and every such sum and all totals in the bill as reported from the committee shall be reduced 10 per cent.

Mr. Mann made a point of order against the motion on the grounds that the proposed changes must be reduced to writing before the bill could be reported back, and it was manifestly impossible to reduce each item 10 per cent and have the bill ready to report "forthwith."

The Speaker overruled the point of order, and said:

It would reduce everything in the bill and nothing that is not in it. It is purely a question of arithmetic; and as far as the committee not being able to report it forthwith, that is to be construed by the ordinary rules of common sense.

2732. The committee to which a bill is recommitted with instructions to report "forthwith" takes no action thereon, and the chairman or some Member acting for him, immediately reports the bill to the House as instructed.

Recommendations reported back to the House by a committee in compliance with peremptory instructions adopted with a motion to recommit must be again voted upon by the House, although just agreed to by the vote to instruct.

On February 10, 1910,³ while the House was considering the Senate amendment to the urgent deficiency bill, a motion by Mr. John J. Fitzgerald, of New York, to commit the bill to the Committee on Appropriations with instructions to that committee to report it back to the House forthwith with certain amendments, was agreed to, yeas 136, nays 128.

¹Third session Sixty-second Congress, Record, p. 3618.

²Champ Clark, of Missouri, Speaker.

³Second session Sixty-first Congress, Record, p. 1721.

In response to a parliamentary inquiry as to when the Committee on Appropriations should report in compliance with the instructions so given, the Speaker¹ held:

The tenor of the instructions was that the Committee on Appropriations report forthwith.

Mr. James A. Tawney, of Minnesota, chairman of the Committee on Appropriations, submitted that the committee was not in session, and in order to comply with the instructions it would be necessary to convene the committee for that purpose.

The Speaker said:

This is largely a parliamentary fiction, and in such cases the practice has been for the chairman or some member of the committee, upon instructions of the House, to report the bill forthwith, with the amendment.

Thereupon Mr. Tawney sent to the desk to be read by the Clerk as the report from the Committee on Appropriations the amendment proposed in the motion to recommit.

Mr. Fitzgerald raised a question as to whether it was necessary to again vote upon the amendment.

The Speaker overruled the point of order, and said:

A vote was taken on a former occasion as to whether the House would agree to the amendment as reported from the committee forthwith, under the instructions of the House. It seems to be, in one sense, perchance, a useless vote, although it would not be a useless vote if the majority refused to concur. The question is, Will the House concur in the Senate amendment with this amendment?

2733. A bill recommitted and reported back “forthwith” under instructions from the House, is read in the House by title only, but accompanying amendments are read in full.

Amendments reported back with a bill recommitted under instructions to report forthwith must be again voted upon by the House when so reported.

On June 10, 1921,² the House agreed to a motion by Mr. Oscar E. Bland, of Indiana, to recommit the bill (H. R. 6611) establishing a veterans' bureau, with instructions to report back the same forthwith, with an amendment.

Mr. Samuel E. Winslow, of Massachusetts, chairman of the Committee on Interstate and Foreign Commerce, to which the bill was recommitted, having reported it back to the House as instructed, Mr. Joseph Walsh, of Massachusetts, submitted that the bill must be read in full.

The Speaker³ held.:

The Chair does not think it is necessary to report the entire bill. The Clerk will report the bill by title.

The Clerk having reported the bill by title and having read the amendment in full, the Speaker put the question on agreeing to the amendment.

¹ Joseph G. Cannon, of Illinois, Speaker.

² First session Sixty-seventh Congress, Record, p. 2427.

³ Frederick H. Gillett, of Massachusetts, Speaker.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment had already been voted upon with the motion to instruct, and it would be superfluous to again vote upon an identical proposition already passed upon by the House.

The Speaker ruled:

The Chair does not so understand it. The bill has been reported back. The House has now again to adopt the amendment. The question is on agreeing to the amendment.

2734. When a bill is recommitted with instructions to report back "forthwith," amendments proposed in such instructions must be voted upon by the House when reported back.

On July 9, 1914,¹ on motion of Mr. John E. Raker, of California, the House recommitted to the Committee on Election of President, Vice President, and Representatives in Congress, the bill (H. R. 8428) relating to publicity of campaign expenditures, with instructions to report the bill back forthwith with an amendment.

The previous question being ordered, the Speaker announced that the pending question was on the passage of the bill.

Mr. Martin B. Madden, of Illinois, as a parliamentary inquiry, suggested that the question should come first on the amendment proposed in the instructions accompanying the motion to recommit.

The Speaker² held that the question on agreeing to the amendment had been decided when the House voted on the motion to recommit, and put the question on the passage of the bill.

The question being taken, the vote disclosed the lack of a quorum, and the House adjourned.

On the following day, when the House resumed consideration of the bill, the Speaker referred to the decision on the question raised by Mr. Madden, and said:

The Chair was mistaken about what ought to have been voted on. The unfinished business is this bill in respect to publicity of campaign contributions. It seemed to the Chair at first blush in the uproar prevailing here yesterday that it was an absolutely superfluous thing to vote on that amendment again; that the vote on recommitting was equivalent to adopting the amendment. But the Chair studied it out when he had plenty of time last evening, and also conversed with a skillful parliamentarian, who is a Member of the House, upon the subject, and finally hunted up the authorities. This kind of a case might arise: The gentleman from California, instead of moving to recommit with 1 amendment, might have included 40 amendments in his motion, if he had so desired, and while the motion to recommit carries, the House might really on a separate vote vote some of those amendments in and some of them out. Then, as good luck would have it, the vote failed on account of the absence of a quorum, so that the incorrect ruling of the Chair did not make any difference. The Chair has no doubt whatever that the proper thing to vote upon when the time comes to vote in the first instance is the amendment. Then the bill will have to be engrossed and read a third time. That is the process.

¹ Second session, Sixty-third Congress, Record, p. 11903.

² Champ Clark, of Missouri, Speaker.

2735. A motion to recommit with instructions to report forthwith having been agreed to, the chairman of the committee to which referred at once reports the bill in conformity with the instructions and the report is before the House for immediate consideration.

Form of report on bill recommitted with instructions.

On December 27, 1932,¹ the House agreed to a motion by Mr. Oscar De Priest, of Illinois, to recommit the Interior Department appropriation bill to the Committee on Appropriations with instructions to that committee to report it back forthwith with an amendment increasing the appropriation for Howard University.

The result of the vote having been announced, Mr. Edward T. Taylor, of Colorado, chairman of the subcommittee in charge of the bill, reported:

Mr. Speaker, pursuant to the instructions of the House on the motion to recommit, I report back the bill (H. R. 13710) making appropriations for the Interior Department for the fiscal year ending June 30, 1934, and for other purposes, with an amendment, which I send to the Clerk's desk.

The Clerk read:

On page 98, line 12, after the figures "\$220,000," add the following: "For construction and completion of a heat, light, and power plant at Howard University, \$460,000, to be immediately available."

The Speaker² put the question:

The question is on agreeing to the amendment.

The amendment was agreed to, the bill was ordered to be engrossed and read a third time, was read a third time and passed.

2736. The motions to refer, commit, and recommit are practically the same, and a motion to recommit a Senate bill to a standing committee of the House to which it had not previously been referred was held to be in order.

A motion to recommit being ruled out on a point of order, a second motion to recommit is then admissible.

To a proposition to limit costs of construction to a fixed sum, an amendment to limit such costs on a percentage basis was held not to be germane.

On February 1, 1923,³ the bill (S. 4390) amending the Federal reserve act, was taken from the Speaker's table and considered.

The bill having been read a third time, Mr. Tilman B. Parks, of Arkansas, offered a motion to recommit the bill with instructions to amend by inserting the following proviso:

Provided, That no Federal reserve bank shall have authority to enter into any contract or contracts for the erection of buildings for its head offices or principal banks the total cost of which shall exceed 15 percent of its capital stock and surplus.

¹ Second session, Seventy-second Congress, Record, p. 988.

² John N. Garner, of Texas, Speaker.

³ Fourth session Sixth-seventh Congress, Record, p. 2837.

Mr. Otis Wingo, of Arkansas, made the point of order that the motion was not in order, first, because it moved to recommit to a standing committee a bill which had not been before it; second, because it proposed an amendment substituting for a limitation to \$250,000 a limitation to 15 percent of the capital stock and surplus.

The Speaker overruled the point of order as to the first contention that the motion should have been to commit rather than to recommit, but sustained the point of order on the question of germaneness.

The Speaker then recognized Mr. Thomas L. Blanton, of Texas, to offer a further motion to recommit.

2737. A division of the question on a motion to recommit may not be demanded regardless of the number of substantive propositions involved.

Only one proper motion to recommit may be made and if rejected a second motion to recommit is not in order.

On January 30, 1922,¹ the independent offices appropriation bill was ordered to be engrossed and was read a third time.

Mr. James F. Byrnes, of South Carolina, offered a motion to recommit containing several substantive propositions.

Mr. James T. Begg, of Ohio, demanded a division of the question on the motion to recommit.

The Speaker² said:

It has been decided that a motion to recommit can not be divided.

Mr. John W. Langley, of Kentucky, as a parliamentary inquiry, desired to know if a second motion to recommit would be in order in event of the rejection of the pending motion.

The Speaker replied in the negative.

2738. The motion to refer being once submitted shall not be again allowed on the same day at the same stage of the question.

It is in order for one of the two Houses to recommit a conference report, if the other House, by action on the report, has not discharged its managers.

The motion to recommit is subject to amendment unless the previous question is ordered.

On August 3, 1916,³ Mr. Asbury F. Lever, of South Carolina, called up the conference report on the bill H. R. 4961, the food control bill.

After debate, Mr. Caleb Powers, of Kentucky, moved to recommit the report to the committee of conference with instructions to the managers on the part of the House to disagree to Senate amendment No. 69, relative to fixing the price of coal.

Mr. J. Hampton Moore, of Pennsylvania, as a parliamentary inquiry, asked if it would be in order to offer a second motion to recommit.

¹ Second session, Seventy-seventh Congress, Record, p. 1934.

² Frederick H. Gillett, of Massachusetts, Speaker.

³ Fourth session Sixth-fifth Congress, Record, p. 5767.

The Speaker ¹ replied:

It is not. The gentleman can offer an amendment to a motion to recommit or a substitute for it, but he can not offer two motions to recommit.

2739. It is not in order to recommit a bill to a subcommittee even though such subcommittee may have had charge of the bill during primary consideration by the committee reporting it.

On February 14, 1921,² the previous question was ordered on the naval appropriation bill and amendments thereto to final passage.

Mr. Thomas L. Blanton, of Texas, moved to recommit the bill to the subcommittee of the Committee on Appropriations, which had considered it, with certain instructions.

Mr. James R. Mann, of Illinois, made the point of order that a bill could not be recommitted to a subcommittee.

The Speaker ³ sustained the point of order.

2740. The simple motion to refer or commit is debatable, but the merits of the proposition which it is proposed to refer may not be brought into the debate.

On August 15, 1911⁴ the Speaker laid before the House a message from the President of the United States returning without his approval the joint resolution (H. J. Res. 14), to admit as States the Territories of New Mexico and Arizona.

Mr. Henry D. Flood, of Virginia, moved to refer the resolution, with the message, to the Committee on Territories, and proceeded to discuss the motion, when Mr. James R. Mann, of Illinois, as a parliamentary inquiry, desired to know if the motion was debatable.

The Speaker ⁵ replied:

No; it is not, on the merits of the proposition. It is debatable when confined strictly to the question of reference to the committee.

2741. The ordering of the previous question on a bill and all amendments to final passage precludes debate on a motion to recommit but does not exclude amendments to such motion.

On January 25, 1929,⁶ the Speaker announced that the unfinished business was the District of Columbia appropriation bill, on which, with all amendments, the previous question had been ordered to final passage before adjournment on the previous day.

The bill having been read a third time, Mr. Anthony J. Griffin, of New York, moved to recommit it to the Committee on Appropriations instructions to report it back to the House forthwith with an amendment.

¹ Champ Clark, of Missouri, Speaker.

² Third session Sixty-sixth Congress, Record, p. 3165.

³ Frederick H. Gillett, of Massachusetts, Speaker.

⁴ First session Sixty-second Congress, Record, p. 3966.

⁵ Champ Clark, of Missouri, Speaker.

⁶ Second session Seventieth Congress, Record, p. 2227.

Mr. Finis J. Garrett, of Tennessee, rising to a parliamentary inquiry, asked if the order for the previous question on the bill and all amendments to final passage applied to the motion to recommit and if the motion was open to debate.

The Speaker ¹ replied:

The motion to recommit is open to amendment but not to debate. In other words the motion to recommit with instructions is treated in the same category as an amendment to the bill, and the previous question having been ordered on the bill and all amendments thereto to final passage, the motion to recommit is then not debatable.

The Chair has before him a precedent and will call the attention of the gentleman from Tennessee to 5571 of Hinds's Precedents, which is exactly in point.

¹Nicholas Longworth, of Ohio, Speaker.